

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CWP No.15825 of 2006

Date of Decision: 29.9.2006

Ranjit Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

**CORAM:- HON'BLE MR.JUSTICE J. S. KHEHAR
HON'BLE MR.JUSTICE S. D. ANAND**

Present: Mr.Malkeet Singh, Advocate
for the petitioner.

S.D.ANAND, J.

1. The petitioner, a Pharmacist in the employment of respondents w.e.f. 21.12.1979, proceeded overseas on duly sanctioned earned leave for the period 10.2.2002 to 8.6.2002. He did not join duty after that leave period was over. He had to, per force, stay over on account of sickness of his wife and other family commitments. His request for extension was declined by the Senior Medical Officer, Koom Kalan, but that fact was not intimated to him. It was only in the month of November, 2002 that it came to his notice that his prayer for extension of leave had been declined. He got back to India and reported for duty on 6.11.2002. After obtaining permission from the competent authority, he was allowed to join duty with effect from 9.12.2002. For his act of absence, he was charge sheeted for a major penalty. A regular enquiry held into the charge indicted him. The Punishing Authority made a copy of the enquiry report available to the

petitioner and required him to have his say in the matter. Ultimately, his dismissal from service was ordered on 24.8.2004. His appeal to respondent No.1 failed.

2. The grievance of the petitioner is that the imposition of penalty of dismissal from service is dis-proportionate to the proven act of dereliction as it (the impugned punishment) does not take cognizance of the fact that he had already put in service of about 24 years prior thereto.

3. The petitioner applied for the grant of a writ of certiorari for invalidating the impugned order dated 24.8.2004 (Annexure P3), passed by respondent No.3 directing his dismissal from service and also the order dated 19.10.2005 passed by the Appellate Authority i.e. respondent No.1 (Annexure P5) deciding the appeal. Also sought, in the nature of a mandamus, was a direction to the respondents to re-instate him into service with all the consequential benefits accruing therefrom including continuity of service.

4. We have heard the learned counsel for the petitioner.

5. It is apparent from the record that the respondents are not proved to have received any request from the petitioner for the extension of leave. In the petition, the petitioner does not at all make an averment with regard to the manner in which he had forwarded his request for extension of leave. As evident from the enquiry report (Annexure P2), all that the petitioner averred in the course thereof was that he had to stay over due to certain circumstances. The report does not quote him as having indicated the circumstances in the context.

6. He also raised a plea before the Enquiry Officer that he ascertained the fate of his request for extension of leave through a named

friend of his who is a Lecturer at Koom Kalan itself and it was that friend of his only who informed him about the non-receipt of extension request by the Office of Senior Medical Officer, Koom Kalan. On his own showing, he did not send any other application even thereafter for extension of leave. At the time he applied for the initially sanctioned earned leave, he had given an undertaking, by means of an affidavit, that he would not request for extension of his leave. The factum of that undertaking was conceded before the Enquiry Officer. As noticed by the Competent Authority in the order (Annexure P3), the petitioner again absented from duty w.e.f. 10.5.2004 and his unauthorised absence continued till the time the impugned order of dismissal from service came to be passed by that authority.

7. The facts re-produced above are relatable to the material obtaining on the file and leave no manner of doubt in our mind that the penalty awarded to the petitioner is absolutely proportionate to his proven act of unauthorised absence from duty. It may be noticed, in the context, that the petitioner is a Pharmacist, whose presence at his place of posting is of understandable utility and significance to those who opt to avail of the facilities available over there. He is proved to have displayed an uncondonable lackadaisical attitude which, in terms of the service jurisprudence, would constitute an act unbecoming of a public servant. We are supported in our view by **State of Rajasthan and another Versus Mohd.Ayub Naz, 2006(1) Supreme Court Cases 589**. In that case as well, the Hon'ble Apex Court was dealing with a matter in which a public servant had been dismissed from service on account of unauthorised absence from service.

8. In the light of foregoing discussion, we find that the impugned

orders do not call for any interference. The writ petition filed by the petitioner shall stand dismissed.

(S. D. ANAND)
JUDGE

(J. S. KHEHAR)
JUDGE

September 29, 2006
SRM